

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CARL ORLANDO, JR., on behalf of himself  
and others similarly situated,

Plaintiff,

15-CV-09434 (RJS)

-against-

LIBERTY ASHES INC., FRANCESCO BELLINO,  
MICHAEL BELLINO, JR., STEPHEN BELLINO and  
MICHAEL BELLINO,

Defendants.

-----x

**AFFIDAVIT OF HELPER RALPH WASHINGTON IN SUPPORT OF  
MOTION FOR SUMMARY JUDGMENT**

STATE OF NEW YORK )

) ss:

COUNTY OF QUEENS )

**RALPH WASHINGTON**, being duly sworn, hereby deposes and states:

1. I am a helper that has worked on packer trucks for Liberty Ashes, Inc.

continuously since October 11, 2013. I have personal knowledge regarding the statements in this affidavit except where those statements are made upon information and belief, and as to those statements I believe them to be true.

2. The Liberty Ashes, Inc. helper employees are required to be responsible for and intimately involved in the safety of operation of the truck fleet and equipment. Although helpers are told by Liberty Ashes, Inc. management which truck to man for a shift, the helpers are given full discretion in performing their task of loading garbage into the trucks, performing safety

activities during the route, and immediately directing the activities of other helpers manning the truck to ensure safe operation of the vehicle. At the start of the route helpers participate with the driver in performing an initial safety inspection of the trucks prior to the truck leaving Liberty Ashes, Inc.'s yard to go out on the route. The helper is required to become familiar with the hazards of the route and plan ahead for known hazards such as low hanging utility wires and narrow streets or pick-ups on one way streets where traffic is likely to be blocked during pickup. The initial safety inspection includes the helper assisting the driver in checking the truck back up alarm, driver's warning buzzer, and all vehicle lights, particularly the stop signal and tail lights.

3. The helpers then continue throughout their work tour for safety purposes to screen the garbage and cardboard that is placed in the trucks. A helper is not told exactly what to do in each instance but is given discretion to take action to make sure the garbage is loaded safely. If a helper determines the garbage is unsafe the helper has the responsibility to reject the load. Additionally Liberty Ashes, Inc. drivers and helpers continually monitor the safety of the trucks, both inspecting the trucks for malfunctions. The helpers also constantly perform the safety function of acting as a "spotter" for the driver throughout the work tour, advising the driver that the truck can be safely moved, that the helpers are safely on the ride steps prior to moving the truck, advising the driver of any obstacles that the driver must avoid and removing obstacles from the truck's path. The helper is also involved in safely moving tipping containers into the hopper and safely connecting the container to the tipper mechanism or winch and then to safely move the container back to the storage location. An example of a helper's maintenance of safety is the requirement to give instructions to the driver to minimize the backing up of the vehicle during the route and otherwise establish and maintain safe collection pickup patterns. Helpers are responsible for the safe backing of the truck by making sure helpers and other members of the

crew and civilians in the immediate vicinity of the truck are positioned to the rear of the truck visible to the driver and are not mounting the truck while it is backing. The company gives helpers safety training regarding many issues including the backing of the truck and directing the driver. Helpers are required to alert the driver if they determine the driver may strike a person or object while backing the truck. The helpers also press an emergency buzzer on the truck to alert the driver to any hazards. When operating the packer trucks, helpers are responsible for the safety of the operation of the packer mechanism, making sure the packer pathway is clear during operation and the power take off control to the packer is not restricted. The helper is also responsible for maintaining the safe operation of the packer winch with cable attached to each packer truck. Each helper is also responsible for the safety of the other members of the crew by making sure those members are constantly wearing their high visibility clothing and reflective vests. Helpers are responsible to secure the load by securing the sweeper blade mechanism. At the end of the route helpers assist drivers in a post route inspection of the vehicle and equipment, making note of any injuries that occurred on the route no matter how minor, noting damaged or missing equipment, and reporting to the driver any garbage that for safety reasons could not be collected. Helpers are also required to report to their supervisors, drivers and fellow crew members any safety issues reported by civilians or unsafe conditions with the crew as well as truck breakdowns, equipment malfunctions, and vehicle accidents. Helpers have instructions to perform all of their job tasks in a safe manner which includes maintaining vehicle safety at all times during the route.

4. I attended safety meetings as part of my employment with Liberty Ashes, Inc. where the company instructed other helpers and me as to the safety protocol we were to follow during the truck routes to maintain the safe operation of the Liberty Ashes, Inc. truck fleet. While

working for Liberty Ashes, Inc. I had discretion over performing my safety tasks while on my work route. I had full discretion to reject unsafe loads such as gasoline and chemicals that might harm the crew or truck. Continuously while working with Liberty Ashes, Inc. I was required to perform safety procedures to ensure the vehicle was operated in a safe manner.

5. I declare under penalty of perjury that the foregoing is true and correct.

Executed: June 30, 2016  
Jamaica, New York

  
RALPH WASHINGTON

Sworn to before me this  
30 day of June, 2016

  
NOTARY PUBLIC

CYNTHIA CASIANO  
Notary Public, State of New York  
No. 01CAS276123  
Qualified in Queens County  
Commission Expires Feb. 11, 17